

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KARIN FUSSY,)	Case No.: 1:21-cv-01307-DAD-JLT
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S MOTION TO
)	ADVANCE THE SCHEDULING CONFERENCE
v.)	(Doc. 14)
)	
RTI SURGICAL,)	
)	
Defendant.)	

This action was removed to this Court in late August 2021. (Doc. 1) A few days later, the defense filed its motion to dismiss the action (Doc. 4). The plaintiff has failed to oppose the motion. However, recognizing she failed to oppose the motion, the plaintiff filed a motion to set aside the dismissal (Doc. 10). Because the Court had not yet ruled on the motion—and still has not—the Court urged her to file an opposition to the motion, if she, in fact, disagreed with the motion to dismiss (Doc. 11). Despite the passage of a month, the plaintiff still has not filed an opposition to the motion to dismiss.

Consequently, on its own motion, the Court continued the scheduling conference from November 22, 2021 to February 28, 2022, to allow the pleadings to settle (Doc. 12). Rather than oppose the motion to dismiss, now the plaintiff seeks to have the Court advance the scheduling conference back to the November date (Doc. 14). However, because the plaintiff seems unwilling to prosecute this action—which is shown by her unwillingness to oppose the motion to dismiss or to file

1 an amended complaint curing whatever defects may exist in her complaint—the Court is unwilling to
2 expended limited judicial resources to schedule the case until the Court has ruled on the motion to
3 dismiss and there is an operative pleading. Thus, the plaintiff’s motion to advance the scheduling
4 conference is **DENIED**.

5
6 IT IS SO ORDERED.

7 Dated: November 9, 2021

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE